

Hebgen Lake Zoning Regulation

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SECTION 1 TITLE, CREATION AND ADOPTION

- 1.1 This Regulation shall be known as the Hebgen Lake Zoning Regulation (the “Regulation”) and is adopted for the Hebgen Lake Zoning District (the “District”). The District was created by Resolution of the Board of County Commissioners, Gallatin County, Montana, on November 13, 1975.
- 1.2 Pursuant to Section 76-2-102, MCA there has been created a Planning and Zoning Commission for the Hebgen Lake Zoning District which consists of the three County Commissioners, the County Surveyor, a county official appointed by the County Commissioners, and two citizen members appointed by the County Commissioners.
- 1.3 Pursuant to Section 76-2-101 through 76-2-113, MCA, there is hereby adopted a development pattern for the District consisting of the Hebgen Lake Zoning District Development Plan, the Hebgen Lake Zoning Regulation and the Hebgen Lake Zoning Map.
- 1.4 The Planning and Zoning Commission shall have all the powers given to it by Montana statutes.
- 1.5 This Regulation is adopted under the provisions of Section 76-2-101 through 76-2-113, MCA, and is intended to be in effect only when adopted in conjunction with a zoning map.

SECTION 2

PURPOSE

The purpose of this Regulation is to promote the public health, safety, and welfare by implementing the development pattern for the Hebgen Lake Zoning District (HLZD), and to:

1. Preserve scenic resources.
2. Conserve fish and wildlife habitat.
3. Prevent soil erosion.
4. Ensure high water quality standards.
5. Prevent over-crowding.
6. Allow for tourism and recreational uses, but not to the point that they destroy the character of the area or threaten aesthetic qualities of the environment, water quality or public safety.
7. Encourage innovations in residential developments to facilitate the conservation and more efficient use of open space.
8. Provide adequate open space, light and air.
9. Allow designated densities as a matter of right without mandatory public review.
10. Carry out the development plan for the Hebgen Lake Zoning District.
11. Minimize impact on neighboring property owners.
12. Conserve property values.
13. Prevent the spread of noxious weeds.

SECTION 3

APPLICATION OF DISTRICT REGULATIONS

- 3.1 Except as herein provided in the administrative sections, the requirements established by this Regulation shall be minimum regulations and shall apply uniformly to each class or kind of structure or land.
- 3.2 Conformance with Zoning Regulations.
1. No building, structure, or land shall hereafter be used or occupied, and no building, structure, or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered unless it is in conformity with all of the regulations herein specified for the district in which it is located.
 2. No building or other structure shall hereafter be erected or altered unless it is in compliance with the height, bulk, lot area and setback requirements of this Regulation.
 3. No part of any yard, or other open space, or off-street parking required about or in connection with any building for the purpose of complying with this Regulation, shall be included as part of a yard, open space, or off-street parking similarly required for any other building.
 4. No yard or lot existing at the time of adoption of this Regulation shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Regulation shall meet at least the minimum requirements established by this Regulation.
 5. Exception: Any public utility pipeline, well, or structure necessary for provision of services required for public health and safety, may be exempted from provisions of this Regulation by the Zoning Enforcement Agent upon finding that such structures will not create a hardship for other property owners. (Not to include any commercial utility service establishment.)
 6. Land Divisions: Any division of land must comply with this Regulation. Subdivisions are reviewed and permitted as provided by the Gallatin County Subdivision Regulations. All subdivisions must be consistent with the development plan for the HLZD and this Regulation.
- 3.3 Applicability to Subdivisions. Only the regulations in effect at the time of the submittal of an application for preliminary plat approval apply to a proposed subdivision. An application for approval of a preliminary plat is deemed submitted to the Board of County Commissioners when a complete application is submitted to the Gallatin County Planning Department in accordance with the Gallatin County Subdivision Regulations.
- 3.4 Applicability to Land Use Permits. Only the regulations in effect at the time of the filing of an application for a land use permit under Section 23 apply to a proposed development.
- 3.5 Minimum Requirements. In the interpretation and application of this Regulation, the provisions of this Regulation shall be held to the minimum requirements adopted for the promotion of the health, safety and general welfare of the District. Whenever the requirements of this Regulation are at variance with the requirements of any other lawfully adopted rules or regulations or covenants, the most restrictive, or that imposing the higher standards, shall govern.

- 3.6 Effect on Natural Resources. In accordance with Section 76-2-109, MCA, this Regulation shall not apply to lands used for grazing, horticulture, agriculture or the growing of timber.
- 3.7 Impact on Private Agreements. This Regulation does not nullify easements, covenants, and similar private agreements, but where such an agreement imposes requirements less restrictive than those adopted here, this Regulation shall apply.
- 3.8 Impact on Other Regulations. This Regulation does not nullify other regulations, but where there is conflict between this Regulation and other requirements imposed by Gallatin County, including the Gallatin County Subdivision Regulations, the most stringent shall apply.
- 3.9 Impact on Subdivisions. All subdivisions approved by Gallatin County shall be fully consistent with the development pattern for the HLZD. All subdivision lots shall be capable of accommodating a permitted use or conditional use, in full compliance with this Regulation.
- 3.10 Burden of Proof. The burden of demonstrating compliance with this Regulation, including the responsibility to submit complete and accurate application materials, rests with the applicant.

SECTION 4 INVALIDATION

- 4.1** If any requirement of this Regulation or its application to particular circumstances is held to be invalid by a state or federal court, the remaining requirements, or the application of the Regulation to other circumstances, shall remain unaffected.

SECTION 5 ESTABLISHMENT OF DISTRICTS

- 5.1 Zones. The jurisdiction of the District is hereby divided into zones or "districts," as shown on the Official Zoning Map, which together with all explanatory matter thereon, the map is hereby adopted by reference and declared to be a part of this Regulation.
- 5.2 Certificate. The Official Zoning Map shall be available in the County Clerk and Recorder's Office and shall bear a certificate with the signature of the Chairman of the County Commissioners attested by the County Clerk and the date of adoption.
- 5.3 Map Changes. At such time as map amendments are made, or in the event that the map becomes damaged, destroyed, lost or difficult to interpret, the Official Zoning Map shall be updated, adopted, and certified pursuant to this Regulation.
- 5.4 Official Zoning Map. Regardless of the existence of purported copies of the map which may from time to time be made or published, the Official Zoning Map kept in the office of the County Clerk and Recorder shall be the final authority as to the current zoning in the District.
- 5.5 Interpretations. Subject to the appeals procedure of Section 17 and court appeals, official interpretations of the map and zoning regulation can only be made by the Zoning Enforcement Agent, the Planning and Zoning Commission and/or the County Commission.
- 5.6 Interpretation of Boundaries. Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the boundaries shall be interpreted as following the nearest logical line to that shown; where:
1. Boundaries indicated as approximately following the centerline of streets, highways or alleys, shall be construed to follow such centerlines.
 2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
 3. Boundaries indicated as following the centerline of streams, watercourses, canals, or ditches shall be construed to follow such centerlines, even if the watercourse changes course.
 4. Boundaries indicated as parallel to or extensions of features indicated on the Official Zoning Map shall be determined according to the scale of the map.
 5. Boundaries indicated as following section lines of quarter section lines or quarter-quarter section lines shall be construed as following such lines.
 6. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map or where other circumstances or controversy arise over district boundaries, the Planning and Zoning Commission shall interpret the district boundary.
 7. Where private covenants (existing as of the adoption date of this Regulation) and this Regulation are not consistent, the more restrictive provisions shall prevail as interpreted by the Zoning Enforcement Agent.

5.7 Interpretation of Uses. Subject to the appeals procedure of Section 17 and court orders, official interpretations of the map and the appropriate classification of a particular use can only be made by the Zoning Enforcement Agent or the Planning and Zoning Commission or the County Commission. In interpreting use classification, the Zoning Enforcement Agent, the Planning and Zoning Commission, or the County Commission shall determine:

1. That the use and its operation are compatible with the uses permitted in the district wherein the use is proposed to be located.
2. That the use is similar to one or more uses permitted in the district wherein it is proposed to be located.
3. That the use will not cause substantial injury to values of property in the neighborhood or district wherein it is proposed to be located.
4. That the intent of the Plan or this Regulation will not be abrogated by such classification.

SECTION 6

DEFINITIONS

For the purpose of this Regulation certain terms and words are defined as follows: words used in the present tense shall also include the future; words or phrases used in the singular shall also include the plural, and words used in the plural shall also include the singular. The word “shall” is mandatory and not permissive. The word "building" includes structure and "structure" includes building; the words "used" or "occupied" shall include within their meaning "intended, arranged, or designed to be used or occupied." The word "person" shall include corporation, partnership, or other legal entity. The masculine pronoun includes the feminine. Where other definitions are necessary and are not defined herein, the Planning and Zoning Commission may define such terms.

- 6.1 Accessory Use or Building. A building or use which: 1). is subordinate in area, extent or purpose to the principal use served; or 2). contributes to the comfort, convenience, or is a necessity for the occupants of the principal building or principal use. Some potentially problematic accessory uses and buildings are specifically addressed here.
1. One single-family dwelling unit, detached or attached, occupied by the owner, a manager, or a guard shall be a customary accessory use for all commercial uses in the Commercial zone.
 2. Home occupations shall be customary accessory uses.
 3. Guesthouses or cabins shall not be customary accessory uses.
- 6.2 Adjacent, Adjoining. Includes all lots or parcels that directly border the lot or parcel on which a development is proposed, and all lots or parcels separated from that lot or parcel by only a public or private easement or right-of-way, including streets, utility lines, and irrigation canals.
- 6.3 Agriculture. Includes the raising of livestock and crops, tree farming, horticulture, gardening, and the accessory uses customarily associated with those activities in the HLZD. Accessory uses to agriculture in the HLZD do not include farm or ranch dwellings or dwellings for farm or ranch employees; confined animal feeding operations, including fur farms; game farms; commercial kennels; stables; riding arenas; the on-site sale of farm or ranch products (except as a home occupation permitted by this Regulation), or the processing of farm or ranch products.
- 6.4 Appellant. The person appealing a decision made to implement this Regulation.
- 6.5 Applicant. The person who applies for a permit or variance required by this Regulation. The applicant must be the landowner or the landowner's designated representative.
- 6.6 Attached Housing. Any building in which two dwelling units share a common wall.
- 6.7 Bar. A commercial use licensed to dispense alcoholic beverages on a retail basis.
- 6.8 Bed and Breakfast. A dwelling unit serving guests on a nightly basis, used as the primary residence of the owner, and serving meals to residents and overnight guests only.

- 6.9 Bear Proof/Animal Proof. A solid waste container that is specifically designed to prevent access or entry by animals, including grizzly bears.
- 6.10 Buffer. A landscaped area that separates potentially incompatible land uses. Buffers must comply with the standards of this Regulation.
- 6.11 Building. As used in this Regulation, refers to any structure for which a permit is required.
- 6.12 Building Height. The vertical distance from lowest elevation of the natural grade to the highest point on a building. Building height excludes chimneys, vents, and antennae.
- 6.13 Caretaker. A caretaker is a person who is employed (compensation may be in the form of free housing) to watch over and perform routine maintenance of a ranch, home, or business.
- 6.14 Certificate of Occupancy. A certificate issued by the Planning Department indicating that an on-site inspection has shown that the development complies with all requirements of this Regulation, including any specific conditions of its approval.
- 6.15 Commercial. A use which involves the exchange of goods and services, for compensation, whether by money, barter, forgiveness of indebtedness, or any other remuneration in exchange for goods, services, lodging, meals, entertainment in any form, or the right to occupy space over a period of time. Specifically includes any use specifically listed as permitted, or permitted upon approval of a conditional use permit, in the C district or the PUD-X district.
- 6.16 Commission. The Planning and Zoning Commission called for by 76-2-102, MCA.
- 6.17 Committee. The Advisory Committee appointed to provide local advice on the administration of this Regulation.
- 6.18 Compatibility. Land uses and structures need not be identical to be "compatible," but must be sited, designed, constructed, and used in such a way that the normal functions and operation of neighboring uses do not seriously conflict, and so that their appearance is harmonious.
- 6.19 Conditional Use. The intent of conditional use permits is to provide for specific uses, other than those specifically permitted in each district, which may be appropriate in the district under certain safeguards or conditions. Proposals for development in the PUD-X shall also be processed as conditional uses, except as exempted by Section 9.2.
- 6.20 Convenience Store. Any retail establishment offering for sale a limited line of groceries and household items intended for the convenience of the neighborhood. May include the sale of fuel/gas.
- 6.21 Cross-Country Ski Facility. An area where trails are groomed for cross-country skiing, for a fee. May also include snowshoeing; warming huts, lodges, and cabins for rent. May include skiing lessons and incidental sales of cross-country skiing and snow shoeing equipment.
- 6.22 Day Care Facility. An establishment providing for the care, supervision, and protection of children.
- 6.23 Density. For the purposes of this Regulation density shall be measured as the number of dwellings per acre permitted in a particular zone. Density is not the same as minimum lot area.

- 6.24 Duplex. A multiple-family dwelling that contains only two dwelling units.
- 6.25 Dwelling, Multiple Family. A building or portion of a building containing two or more dwelling units.
- 6.26 Dwelling, Single Family. A building or portion of a building containing just one dwelling unit.
- 6.27 Dwelling Unit. A building or portion of a building that provides permanent cooking, eating, sleeping, and living facilities for one family and any resident domestic employees.
- 6.28 Family. Any individual or two or more persons related by blood or marriage, or a group of not more than two persons (excluding domestic employees) who need not be related by blood or marriage, living together as a single non-profit housekeeping unit.
- 6.29 Fire Station. A building used for fire equipment and firefighters.
- 6.30 Floor Area. The total area within the exterior walls of a building, measured in square feet.
- 6.31 Footprint. The total area within the exterior walls of the ground floor of a building, measured in square feet.
- 6.32 Gallatin County Planning Department. The employees or contractor retained by Gallatin County to administer this Regulation.
- 6.33 Gasoline Service Station. Any building or portion thereof and the land upon which it is used for supplying fuel and/or oil for motor vehicles, at retail direct to the consumer and/or making minor vehicle repairs.
- 6.34 Gift Shop. An establishment designed to sell trinkets, souvenirs, or other keepsakes on a retail basis.
- 6.35 Guest House. A second dwelling unit which is not attached to the principal dwelling, does not have kitchen facilities, is not rented, and which has a floor area no more than 33 percent of the principal dwelling or 1,000 square feet, whichever is less.
- 6.36 Guest Ranch. Premises used for riding, hiking, or other recreational purposes and where recreationers are provided with meals and overnight accommodations.
- 6.37 Home Occupation. A home occupation is a commercial activity conducted in a home or an accessory building, by the resident family, in compliance with this Regulation.
- 6.38 Horse Riding Facility. A commercial stable where horses are boarded and may be rented for trail rides, pack trips, etc. May include riding lessons and horse training, and incidental sales of equestrian supplies. Does not include riding arenas where events open to the public are staged.
- 6.39 Interested Party. A person who has asked, in writing, to receive notice of certain community meetings, hearings, and decisions.
- 6.40 Kitchen. Any room or space in a dwelling that is designed primarily for the preparation of food.
- 6.41 Laundromat. An establishment that houses coin-operated washing and drying machines for public use.

- 6.42 Linkage. For the purposes of this Regulation, this term refers to open space areas that link or connect different parts of a development, or link or connect the development to adjoining public or private open space areas. Linkages through a site need not be of uniform width, but must be continuous, crossed only as necessary by roads and utility lines. They must also be of a minimum width that is consistent with their purpose, as proposed by the developer and accepted by the county. Nothing in this Regulation requires that the linkages provided be available for use by the general public. The linkages proposed might range from a narrow right-of-way for a bike and walking trail to broad open space corridors that follow streams.
- 6.43 Lot. A platted subdivision lot or a parcel of record.
- 6.44 Lot Area. The total area within the exterior boundaries of a platted lot.
- 6.45 Lot Width. Lot width shall be measured parallel to the road from lot line to lot line at the front setback line.
- 6.46 Manufactured Home. Any structure manufactured in compliance with the National Manufactured Home Construction and Safety Standards Act (42 U.S.C. 5401, et seq., as amended) that is transportable in one or more sections, and which in the traveling mode is eight body feet or more in width or 40 body feet or more in length or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation. For the purposes of this Regulation, manufactured homes fall into two categories:
1. Manufactured homes that comply with the performance standards of Section 16.9, and thus are single-family dwellings.
 2. Mobile homes, which do not comply with the standards of Section 16.9.
- 6.47 Marina. A dock or basin providing secure mooring for boats or yachts and offering repairs, sales and rental of watercraft, excluding personal watercraft.
- 6.48 Material Change. Means any change in: the density of an approved PUD, building heights, the number of structures or parking spaces in an approved PUD, the distance between any structure or road in an approved PUD and any structure on an adjoining property, or in the on or off site utilities and other public or quasi-public facilities and services to be provided.
- 6.49 Minor Utility Installation. Includes electric power and telephone cables and transmission lines, and natural gas pipelines that serve the area through which they are routed. Also includes transformer boxes and other minor appurtenances to transmission lines or pipelines. All other utility installations are commercial uses.
- 6.50 Mobile Home. Any manufactured home that does not meet the requirements of this Regulation for a single-family dwelling. See the definition of ‘dwelling, single family’ and Section 16.9.
- 6.51 Motel. An establishment where lodging is provided for compensation, other than in a dwelling. For purpose of this Regulation, ‘motel’ includes hotel, motor court, auto court, motor lodge, and individually rented cabins.

- 6.52 Nonconforming. An existing lot, use, or structure for which a permit could not be approved if it were proposed after the effective date of this Regulation. The degree of nonconformity is the measurable extent to which a lot or building does not conform to this Regulation.
- 6.53 Open Space. Open space consists of range, crop, timber, and pasturelands, and areas managed for wildlife habitat and passive recreation by residents of a development and their guests, or by the general public.
- 6.54 Parking Space. A minimum 9.5-foot by 20-foot, safely accessible gravel or paved surface dedicated to parking. See Attachment A for detailed performance standards for parking areas.
- 6.55 Permanent Foundation. All dwelling units shall be built on mortared block or concrete foundations. Foundations must comply with the Uniform Building Codes (or adopted Montana Codes) for the appropriate seismic zone.
- 6.56 Permitted Use. A permitted use is an existing use that may continue as a conforming use or a new use for which a land use permit may be obtained.
- 6.57 Personal Watercraft. A vessel that uses an outboard motor or an inboard engine powering a water jet pump as its primary source of propulsion and that is designed to be operated by a person sitting, standing, or kneeling on the vessel rather than by the conventional method of sitting or standing in the vessel, in accordance with 23-2-502 (16), MCA.
- 6.58 Plat. The official map of a subdivision. See the Gallatin County Subdivision Regulations.
- 6.59 Presiding Officer. The chair or acting chair of the Gallatin County Commission, Planning and Zoning Commission, or Advisory Committee.
- 6.60 Professional Office. A building or space within a building used for the provision of professional services, including accounting and financial services, architecture, health care, the practice of law, and similar services.
- 6.61 Recreational Vehicle/Structure. A portable structure without a permanent foundation that can be towed, hauled or driven and primarily designed as a temporary living accommodation for recreational, camping and travel use and including, but not limited to, travel trailers, truck campers, camping trailers, teepees, tents, yurts, and self-propelled motor homes.
- 6.62 Recreational Facilities. Establishments, including accessory uses and structures that are customary in the HLZD, that charge a fee for providing outdoor recreation. This term includes: golf courses, tennis courts, swimming pools, ski areas, marinas, and similar uses.
- 6.63 Residential. Non-commercial single or multi-family dwellings. Residential zones refer to the RX, COS-X, PUD-X, R-5, R-10, and HLE districts.
- 6.64 Residential Renting. Long-term renting (30 days or longer) of a dwelling unit to one and the same family for the entire rental period, consistent with State of Montana inspection requirements.
- 6.65 Restaurant. A public eating house which does not provide curbside or drive-through service.

- 6.66 Riparian Corridor. For the purposes of this Regulation it includes all bodies of water, lakes, reservoirs, streams, and all associated wetlands.
- 6.67 R.V. Park. Any area, tract of land, or campground rented or held out for rent for parking or placement of temporary recreational vehicles.
- 6.68 Sensitive Lands. Includes all riparian corridors, wetlands, and slopes over 30 percent.
- 6.69 Setbacks. Measured at right angles, from the nearest point on the property line to the foundation or to any above grade projection of the structure that extends more than three feet beyond the foundation. A Front setback is measured from the front property line, which is formed by the road or public way on which the building has its address. The Side setbacks are measured from the property lines that run more or less perpendicular to the front property line. The Rear setback is measured to the property line that runs more or less parallel to the front property line.
- 6.70 Short-Term Rental. Rental of a dwelling for a period of less than 30 days.
- 6.71 Sign. Any object, including a vehicle, or structure used to identify, advertise, or in any way attract or direct attention to any use, building, person, or product by any means, including, but not limited to, the use of lettering, words, pictures, and other graphic depictions or symbols. The area of a sign shall be measured as the area of the largest side of a freestanding sign, not including the sign pole, support, or base, and as the entire painted area of a façade sign that is painted directly on a structure.
1. An Off-premise sign is any sign that advertises a place, business, person, good, or service that is not located or available on the lot or parcel on which the sign is located.
 2. A Facade sign is one that is attached directly to the wall (not the roof) of a structure and runs parallel to the wall to which it is attached.
 3. A Freestanding sign is not attached to a structure, but is supported by its own base and pole or other structure.
- 6.72 Site Plan. The basic part of a complete application for a permitted use or conditional use permit, the site plan is a scale drawing, or a series of such drawings, that illustrates all those details of a proposed development needed to demonstrate compliance with this Regulation, including the location of existing and proposed property lines, easements, buildings, parking areas, streets, sidewalks, landscaped buffers, and other features of the site. Where an erosion and runoff control plan is required, the site plan must be prepared on a detailed (contour intervals of two feet) topographic base.
- 6.73 Storage Facility. A rented or leased space or place where goods, materials and/or personal property are put for more than 24 hours.
- 6.74 Structure. That which is built or constructed, an edifice or building of any kind or any piece of work artificially built up or composed of parts joined together in some definite manner, but not including fences less than six feet in height or paved areas or entry portals. A structural alteration is any change in the shape or size of any portion of a building or of the supporting members of the building or structure such as walls, columns, beams, arches, girders, floor joist, or roof rafters.

- 6.75 Subdivision. As defined in the Gallatin County Subdivision Regulations.
- 6.76 Use. Any purpose for which a building or other structure or a tract of land may be designed, arranged, intended, maintained, or occupied for any activity, occupation, business, or operation carried on or intended to be carried on in a building or other structure or on a tract of land. The words “used” or “occupied” shall include within their meaning intended, arranged, designed to be used, or occupied.
- 6.77 Variance. A variance is a modification of the requirements of this Regulation that provides a reasonable use of a lot or parcel that cannot otherwise be developed in compliance with this Regulation. Specific findings are required for the approval of a variance.
- 6.78 Vested Right. A vested right protects developments that had obtained a permit, but were not complete, on the effective date of this Regulation from the change in Regulations. It also provides for vested rights for developments affected by future changes in this Regulation.
- 6.79 Zoning Enforcement Agent. The Gallatin County Planning Director or his/her designee.

ABBREVIATIONS AND ACRONYMS

Abbreviation or Acronym	Meaning
C	Commercial District
COS	Certificate of Survey
COS-X	Existing Certificate of Survey
HLE	Hebgen Lake Estates District
HLZD	Hebgen Lake Zoning District
MCA	Montana Code, Annotated
PL	Public Lands District
PUD-X	Existing Planned Unit Development District
R-5	Residential Zoning District, 5-acre minimum lot size
R-10	Residential Zoning District, 10-acre minimum lot size
RD	Resource Development District
R-X	Existing Residential District

SECTION 7 EXISTING RESIDENTIAL DISTRICT (RX)

- 7.1 Intent. The intent of this district is to provide for residential buildings on lots in subdivisions platted prior to the adoption of the original Hebgen Lake Zoning Regulation.
- 7.2 Permitted Uses. The permitted uses in the RX shall be:
1. Accessory uses.
 2. Home occupations.
 3. Signs, as permitted by this Regulation (see Section 16.11).
 4. One single family dwelling per existing lot.
 5. Residential renting.
 6. Temporary structures for and during construction, only (see Section 16.8).
 7. Keeping riding or pack animals for personal use.
- 7.3 Conditional Use. The conditional uses that may be permitted in the RX and COS-X shall be:
1. Churches.
 2. Fire stations.
 3. Guest houses.
 4. Schools.
- 7.4 Lot Area and Width. Lot area and width of this district shall be the same as approved on the recorded subdivision plat or through Certificate of Survey. No lot area or lot width shall be reduced in size.
- 7.5 Setbacks. Every structure within a lot shall have the following minimum setbacks:
- | | |
|---------------|---------|
| Front setback | 35 feet |
| Rear setback | 25 feet |
| Side setback | 12 feet |
- Exception: There shall be no required setbacks on the side of the property adjacent to lands in the PL district. Eaves, awnings, and similar architectural features may project a maximum of five feet into any front, side, or rear setback. Such appendages shall be supported only at or behind the building setback line.
- 7.6 Floor Area. Each dwelling unit shall have a minimum of 1,000 square feet of floor area.
- 7.7 Building Height. Building height in this district shall not exceed 32 feet.
- 7.8 Development Standards. See Section 16.

(Amended: County Commission Resolution No. 2005-111)

SECTION 8 EXISTING RESIDENTIAL CERTIFICATE OF SURVEY DISTRICT (COS-X)

- 8.1 Intent. The intent of this district is to provide for orderly development of continuous residential tracts under fifteen (15) acres in size which have been created through the filing of certificates of survey.
- 8.2 Permitted Uses. The permitted uses in the COS-X shall be:
1. Accessory uses.
 2. Home occupations.
 3. Signs, as permitted by this Regulation (see Section 16.11).
 4. One single family dwelling per existing lot.
 5. Residential renting.
 6. Temporary structures for and during construction, only (see Section 16.8).
 7. Keeping riding or pack animals for personal use.
- 8.3 Conditional Use. The conditional uses that may be permitted in the RX and COS-X shall be:
1. Churches.
 2. Fire stations.
 3. Guest houses.
 4. Schools.
- 8.4 Density. Density shall be one (1) dwelling unit per three (3) acres.
- 8.5 Lot Area and Width. Lot area and width of this district shall be the same as approved on the recorded subdivision plat or through Certificate of Survey. No lot area or lot width shall be reduced in size.
- 8.6 Setbacks. Every structure within a lot shall have the following minimum setbacks:
- | | |
|---------------|---------|
| Front setback | 35 feet |
| Rear setback | 25 feet |
| Side setback | 12 feet |
- Exception: There shall be no required setbacks on the side of the property adjacent to lands in the PL district. Eaves, awnings, and similar architectural features may project a maximum of five feet into any front, side, or rear setback. Such appendages shall be supported only at or behind the building setback line.
- 8.7 Floor Area. Each dwelling unit shall have a minimum of 1,000 square feet of floor area.
- 8.8 Building Height. Building height in this district shall not exceed 32 feet.
- 8.9 Development Standards. See Section 16.

(Amended: County Commission Resolution No. 2005-111)

SECTION 9

EXISTING PLANNED UNIT DEVELOPMENT DISTRICT (PUD-X)

- 9.1 Intent. The purpose of this district is to provide for the reasonable interim use and future development of properties that were zoned Planned Unit Development (PUD) in the original version or that have been approved prior to the adoption of this Regulation.
- 9.2 Uses By-Right. Properties originally zoned PUD may be used for agriculture and the production of forest products, including installation or construction of fences, corrals, barns, and other structures that are customarily accessory to those uses in the Hebgen Lake area. The owner may also construct dwellings for use by family members and guests, with the number of such dwellings being limited to one for each 160 acres included in the property. This is not a minimum lot size requirement (the land would remain undivided), but a limit on the overall number of family dwellings permitted. A land use permit may be required for such structures.
- 9.3 Uses Permitted Upon Approval of a PUD Plan. The following uses shall be permitted as part of an approved PUD plan:
1. Accessory uses.
 2. Bars.
 3. Gasoline service stations.
 4. Home occupations.
 5. Laundromats.
 6. Motels.
 7. Multi-family dwellings.
 8. Recreational facilities.
 9. Restaurants.
 10. Retail stores serving the development.
 11. Signs as permitted by Section 15.11.
 12. Single-family dwellings.
 13. Temporary structures for and during construction, only.
 14. RV parks.
 15. Mobile home parks.
 16. Storage facilities.
 17. Guest houses.
 18. Fire stations.
 19. Horse riding facilities.
 20. Marinas.
 21. Guest ranches.
- 9.4 Development Standards. All planned unit developments shall be designed in accordance with Section 15 plus the following standards:
1. Planned unit developments may be composed of a single use or a mixture of uses.
 2. Density: Density shall not exceed five units per acre for multi-family uses, and three units per acre for residential uses.

3. Design. The development shall be designed and developed in a manner compatible with and complementary to existing and proposed uses of the area. Further, the planned unit development shall relate harmoniously to the natural environment taking into account and making acceptable provisions for:
 - a. Topography
 - b. Vegetation
 - c. Water courses
 - d. Wildlife habitat
 - e. Soil conditions
 - f. Geology
4. Lot Area. Yards, lot area, lot width and building size shall be determined by the site plan subject to approval of the Planning and Zoning Commission.
5. Building Height. Building height shall not exceed 32 feet for residential structures, and 35 feet for commercial structures.
6. Open Space. At least 35 percent of the development shall be designated and permanently set aside as open space. This open space shall be void of buildings. Normal yard areas around buildings streets, drives, parking areas shall not be counted as open space.

Open space may be left in a natural state or used for agriculture. The open space shall meet the following performance standards:

- a. It shall include at least 90 percent of all sensitive lands on the site, and
 - b. It shall provide effective open space linkages through the proposed development to adjoining properties or public lands, including linkages for both wildlife movement and pedestrian, bicycle, and equestrian trails, and
 - c. It shall provide an effective buffer between the proposed development and adjoining properties. See Section 16.16 for performance standards regarding effective buffers.
- 9.5 Review Procedure. The procedure for obtaining approval of a PUD shall be through the conditional use procedure.
 - 9.6 Application Requirements. The application for a conditional use permit on a property originally zoned PUD shall consist of the following:
 1. Pre-application meeting. A minimum of 30 days prior to the date of application submittal, the applicant shall meet with a member of the Planning Department to review the appropriate procedures, standards, documentation and any other requirements necessary for the complete processing of the application. The Planning Department may consult with service providers regarding the planning unit development impacts.

2. Submittal Requirements. All PUD development applications shall include 15 copies of the following:

- a. Completed and signed conditional use permit application form.
- b. All applicable fees.
- c. A traffic study, if the proposed development will generate 500 or more vehicular trips per day.
- d. A site plan showing:
 - 1) Property lines and easements with dimensions and area.
 - 2) Topographic information.
 - 3) Existing vegetation, wildlife habitat, watercourses, wetlands, soil types, and floodplains.
 - 4) Existing land uses and the location and dimensions of existing structures, utilities, trails and other improvements.
 - 5) The general extent and location of proposed open space areas, including landscaped buffers; the proposed general circulation pattern (vehicular, pedestrian, equestrian, bike, as relevant), other proposed public or quasi-public facilities, proposed land uses and proposed densities, with residential densities being proposed in units per acre and commercial densities proposed in terms of impervious surface ratio.
 - 6) A detailed site plan for the first phase of the proposed PUD showing the extent and location of open space areas and landscaped areas; the proposed streets and trails, and the extent and location of all the other proposed uses and structures, including all proposed public or quasi-public facilities.
- e. Proposed covenants and homeowner's association documents, which provide for the maintenance of common areas, appropriately limit the use of open space, assign the right to use common property to each lot owner and provide for association assessments
- f. Submit an environmental assessment which addresses the following:
 - 1) Soils
 - 2) Geology
 - 3) Hydrology
 - 4) Vegetation
 - 5) Wildlife
- g. If a planned unit development is not required to be reviewed as a subdivision, the applicant must submit information on water supply and sewage treatment, public safety (including fire protection, police, emergency medical response and road access) and historic or archeological resources.
- h. Proposed development schedule and phasing.
- i. Proof of compliance with any recorded covenants on the property.

9.7 Approval. Approval of any PUD, or any amendment to an approved PUD shall be granted only when the Planning and Zoning Commission findings include all of the following:

1. The development conforms to the objectives of the District Development Plan.
2. Such development meets all mechanical requirements of these Regulations, i.e. density and open space.
3. Such development will not adversely affect nearby properties or their occupants.
4. The development will not adversely damage the natural environment
5. A public hearing has been held, after legal notice has been given and the public has been given a chance to be heard upon the matter.

9.8 Conditions of Approval. In granting approval of a PUD or any amendment to an approved PUD, the Planning and Zoning Commission may make approval subject to reasonable limitations or conditions as it deems necessary to enhance the development, to reduce any adverse affects on nearby property, to reduce any effects on the natural environment and to preserve the character of the area. Limitations or conditions may include but not be limited to the following:

1. Reduced density (from maximum density).
2. Enlarged yard area.
3. Greater setbacks.
4. Reduced height.
5. Additional parking.
6. Landscaping of areas around structures to blend them into the natural landscape.
7. Central sewer and water systems.
8. Orienting development on the site so that grading and other site preparation is kept to an absolute minimum.
9. Limiting construction to certain months of the year to prevent adverse degradation of the environment.
10. Use of a variety of building types and designs.
11. Measures to minimize disruption of existing plant and animal communities.
12. Elimination of use of certain bright colors.
13. Revegetation of graded areas.
14. Time schedule for development.

Any construction, improvement or land use permit shall be in accordance with the approved plan.

SECTION 10 RESIDENTIAL DISTRICT (R-5)

10.1 Intent. The intent of this district is to provide for single-family dwellings in areas of slight to moderate limitations for development, as designated in the Development Plan for the Hebgen Lake Zoning District.

10.2 Permitted Uses. The permitted uses in the R-5 shall be:

1. Accessory uses.
2. Home occupations.
3. Signs, as permitted by this Regulation (see Section 16.11).
4. One single-family dwelling per lot.
5. Temporary structures for and during construction, only (see Section 16.8).
6. Residential renting.
7. Agriculture.

10.3 Conditional Use. The conditional uses that may be permitted in the R-5 shall be:

1. Accessory structures over 1,200 square feet.
2. Churches.
3. Fire stations.
4. Guest houses.
5. Guest ranches on contiguous parcels of 60 acres or more.
6. Attached housing, in open space developments only. Attached housing shall be permitted in the form of town homes and condominiums, but time-share condominiums and other short-term rentals are commercial uses, and shall be confined to the C zone.
7. Schools.
8. Wind generators for residential uses.

10.4 Density. Development shall be limited to one dwelling unit for each five acres, except as provided by Section 10.8, which encourages an open space development pattern. This is not a minimum lot size requirement. The number of units permitted is determined by parcel size divided by five acres and rounding to the nearest whole number. Lot size may vary, provided that the resulting development complies with all other requirements of this Regulation.

10.5 Setbacks. Every structure within a lot shall have the following minimum setbacks:

Front setback	35 feet
Rear setback	25 feet
Side setback	25 feet

Exception: There shall be no required setbacks on the side of the property adjacent to lands in the PL district. Eaves, awnings, and similar architectural features may project a maximum of five feet into any front, side, or corner side setback. Such appendages shall be supported only at or behind the building setback line.

10.6 Floor Area. Each dwelling unit shall have a minimum of 1,000 square feet of floor area.

10.7 Building Height. Building height in this district shall not exceed 32 feet.

10.8 Open Space Development.

1. As an incentive for open space development, which concentrates development on the most suitable portion of a site, while preserving sensitive lands and open space, the number of dwellings permitted shall be increased as shown in the table below. To qualify for this incentive, a development must meet the standards of Section 16.

Open Space Provided	Density Permitted
50%	10%
60%	15%
70%	20%
80%	25%

2. The development must include at least 60 acres total, and the open space provided shall meet the following performance standards:
 - a. It shall include at least 90 percent of all sensitive lands on the site (this may require that the minimum amount of open space provided be increased to over 60 percent), and
 - b. It shall provide effective open space linkages through the proposed development to adjoining properties or public lands, including linkages for both wildlife movement and pedestrian, bicycle, and equestrian trails, and
 - c. It shall provide an effective buffer between the proposed development and adjoining properties. See Section 16.16 for performance standards for effective buffers.
3. The procedure for obtaining approval of a density bonus development shall be through the conditional use procedure. An applicant applying for additional density shall follow the procedure specified in Section 21 of this Regulation.

10.9 Development Standards. See Section 16.

SECTION 11 RESIDENTIAL DISTRICT (R-10)

11.1 Intent. The intent of this district is to provide for single-family dwellings in areas of moderate limitation as designated in the Development Plan for the Hebgen Lake Zoning District.

11.2 Permitted Uses. The permitted uses in the R-10 shall be:

1. Accessory uses.
2. Home occupations.
3. Signs, as permitted by this Regulation (see Section 16.11).
4. One single-family dwelling per lot.
5. Residential renting.
6. Temporary structures for and during construction, only (see Section 16.8).
7. Agriculture.

11.3 Conditional Use. The conditional uses that may be permitted in the R-10 shall be:

1. Accessory structures over 1,200 square feet.
2. Churches.
3. Fire stations.
4. Guest houses.
5. Wind generators for residential uses.
6. Guest ranches on contiguous parcels of 60 acres or more.
7. Attached housing, in open space developments only. Attached housing shall be permitted in the form of town homes and condominiums, but time-share condominiums and other short-term rentals are commercial uses, and shall be confined to the Commercial zone.
8. Schools.

11.4 Density. Development shall be limited to one dwelling unit for each ten acres, except as provided by Section 11.8, which encourages an open space development pattern. This is not a minimum lot size requirement. The number of units permitted is determined by parcel size divided by ten acres and rounding to the nearest whole number. Lot size may vary, provided that the resulting development complies with all other requirements of this Regulation.

11.5 Setbacks. Every structure within a lot shall have the following minimum setbacks:

Front setback	35 feet
Rear setback	25 feet
Side setback	25 feet

Exception. There shall be no required setbacks on the side of the property adjacent to lands in the Public Lands District. Eaves, awnings, and similar architectural features may project a maximum of five feet into any front, side, or corner side setback. Such appendages shall be supported only at or behind the building setback line.

11.6 Floor Area. Each dwelling unit shall have a minimum of 1,000 square feet of floor area.

11.7 Building Height. Building height in this district shall not exceed 32 feet.

11.8 Open Space Development.

1. As an incentive for open space development, which concentrates development on the most suitable portion of a site, while preserving sensitive lands and open space, the number of dwellings permitted shall be increased as shown in the table below. To qualify for this incentive, a development must meet the standards of Section 16.

Open Space Provided	Density Permitted
50%	10%
60%	15%
70%	20%
80%	25%

2. The development must include at least 60 acres total, and the open space provided shall meet the following performance standards:
 - a. It shall include at least 90 percent of all sensitive lands on the site (this may require that the minimum amount of open space provided be increased to over 60 percent),
 - b. It shall provide effective open space linkages through the proposed development to adjoining properties or public lands, including linkages for both wildlife movement and pedestrian, bicycle, and equestrian trails, and
 - c. It shall provide an effective buffer between the proposed development and adjoining properties. See Section 16.16 for performance standards for effective buffers.
3. The procedure for obtaining approval of a density bonus development shall be through the conditional use procedure. An applicant applying for additional density bonuses shall follow the procedure specified in Section 21 of this Regulation.

11.9 Development Standards. See Section 16.

SECTION 12 HEBGEN LAKE ESTATES DISTRICT (HLE)

12.1 Intent. The intent of this district is to provide for the orderly development of Hebgen Lake Estates Subdivision.

12.2 Permitted Uses. The permitted uses in the HLE shall be:

1. Accessory uses.
2. Home occupations.
3. Single-family dwellings.
4. Duplex dwelling units on the following lots: Block 2, Lots 1, 2, 3, 4, 7, 8, 16, 18, 19, and 22; Block 3, Lots 47 and 48.
5. Multiple-family dwelling units on the following lots: Block 1, Lots 6, 7, and 9; Block 2, Lots 12, 13, 14, and 15.
6. Office/administration uses on Block 3, Lot 18.
7. Signs, as permitted by this Regulation (see Section 16.11).
8. Temporary buildings for and during construction only.

12.3 Conditional Use. The conditional uses that may be permitted in the HLE shall be:

1. Fire stations
2. Guest houses

12.4 Lot Area and Width. Lot area and width of this district shall be the same as approved on the recorded Amended Plat of Hebgen Lake Estates Subdivision or as approved by the County Commission through the subdivision review process. No lot area or lot width shall be reduced in size without appropriate government approval.

12.5 Setbacks. Every structure within a lot shall have the following minimum setbacks:

Front setback	35 feet
Rear setback	25 feet
Side setback	12 feet

Exception: There shall be no required setbacks on the side of the property adjacent to lands with a zoning designation of Public Lands District. Eaves, awnings, and similar architectural features may project a maximum of five feet into any front, side, or rear setback. Such appendages shall be supported only at or behind the building setback line.

12.6 Floor Area. Each dwelling unit type shall have the following minimum square feet of floor area:

Single-family	1,000 square feet
Duplex	650 square feet
Multi-family	650 square feet

12.7 Building Height. Building height in this district shall not exceed 32 feet.

12.8 Development Standards. See Section 16.

SECTION 13 COMMERCIAL DISTRICT

13.1 Intent. The intent of this district is to provide for commercial establishments necessary to serve the needs or both area residents and the traveling public

13.2 Permitted Uses. The permitted uses in the Commercial District shall be:

1. Accessory uses.
2. Single-family dwellings for owners and caretakers.
3. Bars.
4. Gasoline service stations.
5. Laundromats.
6. Motels.
7. Restaurants.
8. Signs, as permitted by this Regulation (see Section 16.11).
9. Temporary structures for and during construction, only.
10. Gift shops.
11. Convenience stores.
12. Cross country ski facilities.
13. Bed and Breakfasts.
14. Daycare facilities.
15. Professional offices.

13.3 Conditional Use. The conditional uses that may be permitted in the Commercial District shall be:

1. Fire stations.
2. Retail stores which serve the public, other than those listed above under permitted uses.
3. RV parks.
4. Storage facilities.
5. Horse riding facilities.
6. Marinas.
7. Guest ranches.
8. Attached housing.
9. The short-term rental of condominiums and other dwellings.
10. Structures over 26 feet in height.

13.4 Lot Area and Width. Minimum lot size shall be three acres, with a minimum lot width of 150 feet.

13.5 Setbacks. Every structure within a lot shall have the following minimum setbacks:

Front setback	35 feet
Rear setback	25 feet
Side setback	12 feet

Exception: There shall be no required setbacks on the side of the property adjacent to lands in the Public Lands District. Eaves, awnings, and similar architectural features may project a maximum of five feet into any front, side, or rear setback. Such appendages shall be supported only at or behind the building setback line.

13.6 Floor Area. No minimum requirement.

13.7 Building Height. Building height in this district shall not exceed 26 feet.

13.8 Landscaped Buffers. New and expanded commercial uses shall provide effective landscaped buffers, along public roads and along property lines with residential zones. Effective buffers should comply with Section 16.16.

13.9 Development Standards. See Section 16.

SECTION 14 RESOURCE DEVELOPMENT DISTRICT (RD)

14.1 Intent. The intent of this district is to provide for manufacturing related to natural resource development in the area. These areas are intended to provide for the preservation of the environmental quality, and still allow for value added manufacturing of natural resource products, related to timber, mining, and agriculture.

14.2 Permitted Uses. The permitted uses in the Resource Development shall be:

1. Growing and harvesting of timber and other forest products, and related activities, including logging.
2. Agriculture.
3. Signs as permitted by this Regulation (see Section 16.11).

14.3 Conditional Use. The conditional uses that may be permitted in the RD shall be:

1. Gravel pits.
2. Mines.
3. Batch plants.
4. Construction plants.

14.4 Development Standards. See Section 16.

14.5 Setbacks. Every structure within a lot shall have the following minimum setbacks:

Front setback	35 feet
Rear setback	25 feet
Side setback	12 feet

14.6 Landscaped Buffers. New and expanded conditional uses shall provide effective landscaped buffers, along public roads and along property lines with residential zones. Buffers shall comply with Section 16.16.

SECTION 15 PUBLIC LANDS DISTRICT (PL)

- 15.1 Intent. The intent of this district is to provide for those lands, which are in public ownership, and to provide for the preservation of the environmental quality, wildlife habitat and undeveloped character of those public lands.
- 15.2 Applicability. If public lands change to private ownership, the restrictions of Section 15.3 shall apply until such time as the property owner requests and receives a change in zoning designation following the amendment process. If private lands change to public ownership, either the property owner or the Planning and Zoning Commission shall initiate a zone change to a PL district within 120 days.
- 15.3 Permitted Uses. The permitted uses for public lands that have been converted to private ownership, but not re-zoned shall be:
1. Growing and harvesting of timber and other forest products and related activities, including logging.
 2. Agriculture.
 3. Signs warning against trespass, shooting and hunting on the premises, without limitation as to number. Trail and information signs.

SECTION 16 DEVELOPMENT STANDARDS

This chapter consists of standards with which all development must comply, as applicable.

16.1 Off-Street Parking. Off-street parking areas shall comply with the detailed performance standards of Attachment A.

16.2 Visibility at Intersections.

1. Clear vision triangles shall be provided on both sides of driveways and alleys. A clear vision triangle is defined by extending a line between two points: Point 1 shall be 15 feet from the outer edge of the driveway or alley on the lot line paralleling the street the driveway or alley enters and Point 2 shall be 15 feet back from the lot line along the edge of the driveway or alley. For driveways accessing highways, the distance shall be increased to 30 feet. Driveways projected to carry 300 or more ADT (average daily traffic) shall be treated as street intersections.
2. Clear vision triangles shall be provided at all intersections. A clear vision triangle is defined by extending a line between two points, each of which shall be 30 feet from the intersection of the rights-of-way along the lot lines. For highway intersections, the distance shall be increased to 60 feet.
3. Notwithstanding other provisions of this Regulation, in any residential district, fences, walls, hedges, or other planting may be permitted in any required yard, providing that nothing shall be erected, placed, planted, or allowed to grow in such a manner as materially to impede vision between a height of two and a half feet and ten feet above centerline grades of the intersecting streets in the area bounded by street lines of such corner lots and a line joining points along said street lines 40 feet from property lines.

16.3 Glare/Heat. No development shall direct hazardous glare or heat beyond its property line. Welding equipment and similar sources of intense glare or heat shall be shielded from neighboring properties and public ways by enclosure in a building, location on the site, or an opaque fence or wall.

Exception: This performance standard applies to glare or heat generated by the occupancy or operation of a development. It is not intended to prevent the temporary use of portable welding equipment for construction or repair

16.4 Exterior Lighting. All outdoor lighting fixtures shall be designed and constructed in such a manner to ensure that:

1. Direct or reflected light is confined to the area needing it and that it is not directed off the property.
2. All light sources are fully shielded.
3. Any light sources or light lenses are not directly visible from beyond the boundary of the site.
4. Light from any illuminated source shall be so shaded, shielded, or directed that the light intensity or brightness will not be objectionable to surrounding areas.

5. Lighting fixtures shall be a down-type having 100 percent cut off. The light rays may not be emitted by the installed fixture at angles above the horizontal plane, as may be certified by photometric test.
6. There shall be no lighting of a blinking, flashing, or fluttering nature, including changes in light intensity, brightness or color. Exception: holiday lights with no commercial message.
7. Beacon lights are not permitted.

16.5 Solid Waste.

1. Solid waste shall be stored in an enclosed building or in bear-proof containers and handled in a way that does not attract bears, rodents, flies, or other animals; generate odors perceptible beyond the property line or liquid runoff; or permit blowing of paper and other lightweight waste.
2. Commercial solid waste handling and storage areas shall be effectively screened from public view by enclosure in a building, location on the site, or an opaque fence or wall.

16.6 Accessory Buildings. All accessory buildings shall meet the following requirements:

1. No accessory building shall be erected in any required set back. Detached garages shall be erected no closer than five and one half feet of any principal structure. No other separate accessory use shall be erected within ten feet of any principal structure.
2. Accessory buildings may be erected prior to the principal building, provided that the principal building is constructed within two years of the issuance of the land use permit for the accessory building.
3. No unfinished reflective siding shall be allowed. All accessory buildings over 1,200 square feet in size shall require a conditional use permit.
4. On lots smaller than five acres, only one accessory building shall be allowed. A maximum of three accessory buildings shall be allowed on lots five acres or greater.
5. Accessory buildings shall not exceed 24 feet in height.
6. Accessory buildings less than 200 square feet do not require a land use permit.

16.7 Recreational Structures/Vehicles. Temporary recreational dwellings shall be allowed in residential districts, subject to the following conditions:

1. That only one such dwelling is placed on a lot at one time,
2. That no such structure shall remain in place for longer than three consecutive weeks, except in storage on a lot with a permanent dwelling.
3. That the recreational structure be attached to an approved sewage disposal system or be self-contained (which requires hauling sewage to an approved facility).

16.8 Temporary Structures. Temporary structures used for construction purposes shall meet the following requirements:

1. Temporary structures shall be located on the property where construction is taking place.
2. Temporary structures shall be removed within 12 months after start of construction.
3. One recreational vehicle or travel trailer shall be allowed as a temporary accessory use for every 3,000 square feet of building being constructed.
4. That the temporary dwelling be attached to an approved sewage disposal system or be self-contained (which requires hauling sewage to an approved facility).
5. A land use permit shall be required prior to the placement of a temporary structure onto a site.

16.9 Building Standards for Dwellings.

1. Minimum Roof Pitch and Minimum Distance Eaves to Ridge: The pitch of the main roof shall be not less than one foot of rise for each four feet of horizontal run. Minimum distance from eaves to ridge shall be 14 feet on a horizontal run.
2. Manufactured Housing Specifications: All dwellings shall meet the current Department of Housing and Urban Development codes for manufactured homes, the International Building Code when adopted
3. Code Compliance: All dwellings, whether manufactured or site-built, shall meet the current applicable building code when adopted, for the appropriate seismic zone, for area.
4. Permanent Foundation: All dwellings shall be built on mortared block, concrete, or equivalent foundations. Foundations must comply with the *Uniform Building Code*, or the *International Building Code* when adopted, for the appropriate seismic designation, or adopted state/local code for area.
5. Dwelling Exterior: The exterior of all dwellings shall be completed within two years from the issuance of the land use permits.

16.10 Home Occupations.

1. All home occupations shall be conducted entirely within the dwelling or an accessory building.
2. No home occupation shall occupy more than 20 percent of the gross floor area of the structures on the lot, not to exceed 400 square feet.
3. Home occupations shall have no on-site employees other than members of the resident's family.
4. Home occupations shall not alter or detract from the residential character of the premises on which they are conducted.
5. Home occupations shall not solicit or attract walk-in customers.

16.11 Signs. Sign Permits approved by the Planning Department are required for permitted signs.

1. No off-premise signs shall be permitted.
2. Signs within residential districts shall be limited to resident identification signs, street and other traffic control signs, and “for sale” signs. Home occupations shall not display a sign.
3. Signs within the Commercial District, shall be limited to the signs permitted in residential zones and two on-premise signs, including:
 - a. One facade sign not larger than 4’ x 8’ feet in size, and
 - b. One freestanding sign not larger than 4’ x 8’ in size or higher than 16 feet.
4. Flashing signs shall be prohibited. The illumination of signs shall comply with exterior lighting standards.
5. No sign shall be placed within a clear vision triangle.
6. Materials and colors shall be compatible with the materials and colors used in neighboring buildings.
7. Sign permits shall not be required for traffic control and street signs installed in a public right-of-way by a public agency; the signs permitted in residential zones by this Regulation, and directional signs in the commercial zones but compliance with the applicable requirements of this Regulation shall be required.

16.12 Architectural Design.

1. The bulk and scale of proposed buildings shall be compatible with neighboring buildings and uses.
2. The exterior materials of proposed buildings shall be compatible with neighboring buildings and uses.
3. The roof pitch and materials of proposed buildings shall be compatible with neighboring buildings and uses, and with the snowy climate of the HLZD.

16.13 Shoreline Protection. The purpose of this Regulation is to provide protection of the fragile wetlands and shoreline surrounding Hebgen Lake. Any structure which is to be constructed within 100 feet of the high water level of Hebgen Lake must meet the following requirements prior to the issuance of a land use permit:

1. A wastewater treatment system permit shall be issued by the Gallatin County Environmental Health Department.
2. All required state or federal permits.
3. No underground fuel tanks.

16.14 Compatible Land Use. The proposed site plan shall provide for compatible land use, both within its boundaries and with neighboring properties. Compatibility shall be evaluated using the following criteria.

1. Building bulk and scale.
2. Building materials and colors.
3. Building siting and orientation to protect and provide views.
4. The effective use of landscaped buffers between different uses and intensities of use, and within commercial and residential developments where different intensities of use are proposed.
5. Design of the circulation system so that traffic from higher intensity uses is not routed through areas of lower intensity use.
6. Siting, designing, and landscaping of access drives, streets, and parking areas so that paved surfaces do not dominate views from adjoining properties or public ways.
7. Activity levels, as measured by reasonably anticipated traffic generation, parking demand, noise levels, illumination, signage, hours of operation, and similar indicators of impact.

16.15 Underground Utilities. All new utility lines shall be installed underground.

16.16 Effective Buffers. Buffers required by this Regulation shall meet the following performance standards:

	Development type being buffered	Residential	Commercial	Public way
Development type providing buffer				
Open Space: Residential		100 feet	100 feet	None
Commercial		50 feet	None	20 feet

1. Width: The buffer widths shown in the table above shall be presumed to be effective. Narrower buffers, down to the required setbacks, may be deemed effective where:
 - a. Dense existing vegetation or a topographic break in the line of sight reduce the need for buffering, and/or
 - b. The developer proposes to provide and maintain more than the minimum landscaping required below and/or a fence or wall, and/or
 - c. A proposed commercial use is of such low intensity that a narrower buffer will be effective. Intensity will be assessed using the criteria listed above.

2. Planting: Where it exists, effective buffering vegetation shall be retained and maintained. Otherwise, buffers shall be planted in a permanent ground cover and native shrubs and/or trees suitable for the area and the site. In open meadow environments, at least five shrubs (each in five gallon containers or larger) shall be provided per 100 linear feet of buffer. Where planting trees is feasible, a combination of shrubs and trees that mimics the natural combinations found on similar lands in the HLZD shall be planted. Minimum shrub container size shall be five gallon; minimum tree size shall be six feet tall. Perpetual maintenance of the buffer and its planting is required.
3. Screening: An opaque fence or wall may be required as part of an effective buffer, where necessary to prevent headlight glare onto adjoining properties from roads and parking areas, or to help conceal storage or other potentially unsightly areas. The height of the wall required may vary with its purpose and the terrain.
4. Roads and Utilities: Roads and utility lines may cross required buffers as necessary. Permitted signs may be based in required buffers along public roads, but with the outer edge of the base set back at least five feet from the right-of-way. A pedestrian, bicycle, or equestrian trail not more than ten feet in width may be included within a required buffer, provided that the majority of the landscaped portion of the buffer is outside (toward the property being buffered) the trail.

SECTION 17 ADMINISTRATION

17.1 Employees and Officers. The Hebgen Planning and Zoning Commission is authorized to appoint and hire such employees and officers, including a Zoning Enforcement Agent as shall be deemed necessary to carry out the provisions of this Regulation. The Zoning Enforcement Agent may be an employee of Gallatin County and if so, shall perform duties hereunder without remuneration in excess of the Agent's regular salary.

17.2 Duties of the Zoning Enforcement Agent. The Zoning Enforcement Agent shall issue all land use permits and review all applications submitted to the Planning and Zoning Commission for conditional use permits, variances, rezoning requests and amendments to the Regulation. The Zoning Enforcement Agent and staff shall work for the Planning and Zoning Commission and be in an advisory capacity, making recommendations on all requests. The Zoning Enforcement Agent and staff shall also investigate violations of this Regulation.

If the Zoning Enforcement Agent finds that provisions of this Regulation are being violated, the Agent shall notify in writing the person responsible for the violation stating the nature of the violation and requesting that action be taken to correct it. The Zoning Enforcement Agent shall request discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or of illegal additions, alterations, or structural changes, discontinuance of an illegal work being done; or shall take any other action authorized by this Regulation to ensure compliance with or prevent violation of its provisions.

17.3 Advisory Committee (Committee). A Hebgen Lake Advisory Committee may be created consisting of up to five members, appointed by the Planning and Zoning Commission. Members shall be freeholders in the Hebgen Lake Zoning District. This shall be a non-remunerative committee. Committee members shall be appointed for two-year, staggered terms.

The Advisory Committee may consider, formulate and transmit a recommendation on applications, petitions and alleged zoning violations within the District. The recommendation shall be advisory only and shall not be binding upon the Planning and Zoning Commission or the County Commission.

All meetings of the Advisory Committee shall be open to the public in accordance with the Montana Open Meetings Law.

17.4 Application Forms. Applications for permits shall be submitted on the forms provided by the county. All information, including the site plan, and all other maps, plans, drawings, tabulations, and calculations necessary to demonstrate compliance with this Regulation, shall be required for a complete application. The Planning Department may require submission of multiple copies of application forms and supporting materials.

17.5 Appeals. Appeals from the decision of the Zoning Enforcement Agent concerning interpretation of this Regulation may be taken in writing to the County Commission. An appeal must be filed within 30 working days of the date of receipt of the written decision of the Zoning Enforcement Agent by the County Commission.

A public hearing shall be held on an appeal only if the matter appealed was required by the terms of this Regulation to be decided after holding a public hearing. At the hearing, the County Commission shall accept testimony from persons interested in the appeal, the appellant and the Zoning Enforcement Agent. Notice of the hearing shall be published once in a newspaper of general circulation within Gallatin County at least 15 days prior to the hearing date.

- 17.6 Schedule of Fees. All applications for permits, zone changes, conditional uses, amendments, or variances shall be accompanied by the applicable fees, which shall be established by the Planning and Zoning Commission by resolution after public notice and hearing. Fees are not refundable.

No permit, zone change, conditional use, amendment, or variance shall be issued unless or until fees have been paid in full. No action shall be taken on proceedings before the Planning and Zoning Commission, unless, or until, the fees have been paid in full.

SECTION 18

NON-CONFORMING LOTS, USES AND STRUCTURES

- 18.1 Intent. Within the districts established by this Regulation, there exist lots, structures, uses of land and structures, and characteristics of use which were lawful before this Regulation was adopted or amended, but which would be prohibited, regulated or restricted under terms of this Regulation or future amendments. It is the intent of this Regulation that non-conformities shall not be enlarged upon, expanded or extended, nor used as grounds for adding other structures or uses prohibited elsewhere in the same district.

Non-conforming uses are declared by this Regulation to be incompatible with permitted uses in the district involved. However, to avoid undue hardship, nothing in this Regulation shall be deemed to require a change in the plans, construction or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment to this Regulation and which actual building construction has been carried on diligently. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where excavation or demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such excavation or demolition or removal shall be deemed to be actual construction, provided that work shall be carried on diligently.

- 18.2 Non-Conforming Parcels of Record. In any district, structures permitted in said district may be erected on any non-conforming parcel which was of record on the effective date. All other requirements and restrictions of the district apply to a parcel of record that does not meet parcel area or parcel width requirements.

A non-conforming parcel of land shall not be divided or changed in any way to reduce the area of the original parcel or increase its non-conformity.

- 18.3 Non-Conforming Uses of Land. Where at the time of adoption of this Regulation lawful use of land exists which would not be permitted by this Regulation, the use may be continued so long as it remains otherwise lawful, provided:

1. No such non-conforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Regulation.
2. No such non-conforming uses shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment of this Regulation.
3. If any such non-conforming use of land, with the exception of seasonal uses, ceases for any reason for a period of more than 12 months, any subsequent use of such land shall conform to the Regulation classified by this Regulation for the district in which such land is located. If a seasonal use ceases for the use of one season, then subsequent use of such land shall conform to this Regulation.

- 18.4 Non-Conforming Structures. Where a lawful structure exists at the effective date of adoption or amendment of this Regulation that could not be built under the terms of this Regulation by reason of restriction on parcel, area, height, yards, its location on the parcel, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No such non-conforming structure may be altered or enlarged in any way which increases its non-conformity, but any structure or portion thereof may be altered to decrease its non-conformity.
2. Should such non-conforming structure or non-conforming portion of a structure be destroyed by a catastrophic event, it may be reconstructed if it is rebuilt in substantially the same manner as it existed prior to destruction and does not require prior approval by the Planning and Zoning Commission. Any use or structure which is not substantially the same as the original use or structure must conform with the applicable provisions of this Regulation and applicable federal, state, and local building codes.
3. Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the requirements of this Regulation for the district in which it is located after it is moved.

18.5 Non-Conforming Uses of Structures. If lawful use of a structure or of structures and premises exists at the effective date of adoption or amendment of this Regulation that would not be allowed in the district under the terms of this Regulation, the lawful use may be continued so long as it remains otherwise lawful providing that:

1. No existing structure devoted to a non-conforming use shall be enlarged, extended, constructed, or structurally altered, unless the use is changed to a permitted use.
2. Any non-conforming use may be extended to any other part of a structure designed for such use, but no such use may be extended in any way to occupy land outside the structure.
3. Any structure, or structure and land, in or on which a non-conforming use is superseded by a permitted use shall thereafter conform to the regulations of the district in which it is located and the non-conforming use may not thereafter be resumed.
4. If a non-conforming use of a structure ceases for a period of more than 12 months, except for seasonal uses, any subsequent use of such structure shall conform to the regulations of the district in which it is located.
5. If a non-conforming use is destroyed by catastrophic event, it may be reconstructed if it is rebuilt in substantially the same manner as it existed prior to destruction. Reconstruction of a non-conforming use does not require prior approval of the Planning and Zoning Commission. Any use which is not substantially the same as the original use must conform with the applicable provision of this Regulation.

18.6 Repairs and Maintenance. On any non-conforming structure or portion of the structure containing a non-conforming use, work may be done on ordinary repairs and fixtures, wiring, plumbing, or repair or replacement of non-load-bearing walls, to an extent not exceeding ten percent of the replacement value of the building in any one year, provided that such work does not increase the cubic content of the building. Nothing in this Regulation shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official or other person qualified to make such a declaration.

18.7 Conditional Uses. A conditional use as provided for in this Regulation shall not be deemed a non-conforming use in the district in which it is permitted.

18.8 Determination of Status of Non-Conforming Land Uses and Structures. It shall be the responsibility of the Zoning Enforcement Agent to determine the status of non-conforming land uses and structures. If the Zoning Enforcement Agent determines that a use or structure meets the applicable criteria of Sections 18.1, 18.2, 18.4 and 18.5 above, the use or structure shall be deemed an approved non-conforming land use or approved non-conforming structure. The following procedure shall be followed to determine the status of non-conforming land uses and structures.

1. The owner of record of the subject use or structure shall make an application for a determination of the status of a land use or structure.
2. It shall be the burden of the applicant to prove entitlement to approved non-conforming status by furnishing the Zoning Enforcement Agent with a preponderance of supporting information. Such information shall include, but not be limited to, septic or sewer hook-up permits, building permits, business licenses and dated photographs.
3. The Zoning Enforcement Agent shall determine on a case-by-case basis whether a land use or structure is an existing non-conforming use or existing non-conforming structure.
4. Appeals of the Zoning Enforcement Agent's decision may be made in accordance with the provisions of Section 18.4.
5. The Zoning Enforcement Agent shall maintain a record of existing non-conforming uses and structures as such information becomes available.

SECTION 19

PUBLIC MEETINGS AND HEARINGS

19.1 Advisory Committee Community Meeting.

1. The Planning Department may refer applications to the Advisory Committee and the Committee may schedule a community meeting as soon as possible after the application is filed. Community meetings may be held within the Hebgen Lake Basin.
2. The community meeting may include a presentation by the applicant and a community discussion. Following this discussion the Committee may produce a consensus report, or in the absence of consensus, majority and minority reports, stating whether or not it finds that the proposed development complies with this Regulation. The Committee may recommend conditions of approval in its report. Where it recommends that an application be rejected, the Committee may give specific reasons why it finds that the proposed development fails to comply with this Regulation.
3. The Committee may provide notice of the community meeting by:
 - a. Publication in the *West Yellowstone News*, or other local paper of record, with newspaper notice appearing at least 15 days before the community meeting.
 - b. Posting notice that is visible from the nearest public road at least 15 days before the community meeting, which also may advertise the Commission public hearing.
 - c. Public notices required by this Regulation may provide the following information: the name of the applicant; a general description by which the public can locate the proposed development; the date, time, and place of the community meeting; and the purpose of the meeting.
 - d. The applicant is responsible for paying for the cost of legal notification in the *West Yellowstone News* for any and all issues presented to the Advisory Committee. The Advisory Committee shall appropriately notice all meetings in which an applicant has paid for such notification.

19.2 Planning and Zoning Commission Hearings.

1. The Planning Department shall convey the application, including if available, the Committee's report, to the Planning and Zoning Commission for a hearing at its next scheduled meeting at which these notice requirements can be met and time will allow proper consideration of the application. Notice of the Planning and Zoning Commission hearing as authorized by State statute:
 - a. Publication in the *West Yellowstone News*, or other local paper of record, with newspaper notice appearing at least 15 days before the public hearing.
 - b. Certified mail to adjacent property owners of record to the exterior boundaries of the proposed development site, with this mailing going out at least 15 days before the public hearing.

2. At its hearing, the Planning and Zoning Commission shall, following the protocol established by the County, review the application and the Committee's report, take testimony, and determine whether the proposed development complies with this Regulation. If the proposed development complies with all applicable requirements of this Regulation, the application for a permit shall be approved. If the proposed development fails to comply with any applicable requirement of this Regulation, the application for a permit shall be rejected.
- 19.3 Hearing Procedure. All hearings required by this Regulation shall follow the protocol established by the County. This protocol may also be followed at community meetings.

SECTION 20

AMENDMENTS AND CHANGES

- 20.1 Zoning Regulation Amendments. These Regulations and the development plan may be amended whenever the public necessity and convenience and general welfare requires such amendment and according to the procedure prescribed by law and these Regulations. All proposed amendments or revisions shall be presented in the format of this Regulation and, where applicable, in a format that shows all deletions from and additions to the current text.
- 20.2 Amendment Procedure. An amendment may be initiated by:
1. A request by the Advisory Committee to the Planning and Zoning Commission.
 2. The petition of one or more landowners of property affected by the proposed amendment. The petition shall be signed by petitioning landowners and shall be filed with the Planning Department. The appropriate fee, payable to Gallatin County, shall accompany the petition.
 3. Resolution of intention of the Board of County Commissioners.
 4. Resolution of intention by the Planning and Zoning Commission.
- 20.3 Advisory Committee Meeting. Proposed amendments may first be presented at a community meeting which shall have the same notice requirements as a conditional use permit. The Committee may prepare a report based on the discussion at that meeting, indicating whether or not it recommends adoption of the proposed amendment.
- 20.4 Planning and Zoning Commission Hearing. All proposed amendments shall be considered by the Planning and Zoning Commission at a public hearing. The Planning and Zoning Commission shall schedule a hearing on the proposed amendment. Notice of the hearing shall be given in a newspaper of general circulation in Gallatin County not less than 15 days prior to the date of the hearing.
- The Planning and Zoning Commission shall conduct a hearing on the proposed amendment. At that hearing, the Planning and Zoning Commission shall consider the Committee report, take testimony, and determine whether the proposed amendment is consistent with the development pattern for the HLZD. If the Planning and Zoning Commission finds that the proposed amendment is consistent with the development pattern, it may adopt the amendment. If the Planning and Zoning Commission finds that the proposed amendment is not consistent with the development pattern, no action shall be taken.
- 20.5 Joint Hearing. The Planning and Zoning Commission and County Commission may conduct a joint public hearing to consider amendments to this Regulation. The procedures of Section 19.2 shall apply to a joint public hearing.

SECTION 21

CONDITIONAL USES

- 21.1 Intent. The intent of conditional use permits is to provide for specific uses, other than those specifically permitted in each district, which may be appropriate under certain safeguards or conditions.
- 21.2 Conditional Use Requirements. No structure or land in any district may be used for any purpose unless such use is listed as a permitted or conditional use in this Regulation and approval for that use is obtained through the proper procedure.

The Planning and Zoning Commission may grant Conditional Use Permits when they find:

1. The use conforms to the objectives of the Hebgen Lake Zoning District Development Plan and the intent of this Regulation.
 2. The use will not adversely affect nearby properties or their occupants.
 3. The use meets density, coverage, yard, height, and all other Regulations of the district in which it is to be located, unless otherwise provided for in this Regulation.
 4. A public hearing, after notice has been given, has been held.
- 21.3 Conditional Use Procedure. The conditional use permit procedure ensures effective local review of developments that may have significant impacts. The conditional use permit procedure shall be as follows:
1. All applications for conditional use permits shall be filed with the Planning and Zoning Commission, accompanied by the appropriate filing fee.
 2. The Gallatin County Planning Department may refer the application to the Advisory Committee for review and place a hearing on the proposed conditional use on the agenda of the next regular Planning and Zoning hearing for which the notice requirements can be met and at which time will allow committee review and its proper consideration.
 3. The Planning and Zoning Commission shall cause to be made such investigation of facts bearing on the application as will provide necessary information to assure that the action on each application is consistent with the intent and purpose of this Regulation.
 4. Upon completion of the investigation the Planning and Zoning Commission shall hold a public hearing to gather needed facts from all interested parties. The Planning and Zoning Commission may continue the hearing, if need be, to take additional information. Thereafter, the Planning and Zoning Commission shall either approve or deny the application. A letter shall be sent to the applicant stating either conditions of approval or reasons for denial.
 5. Notice of public hearing for conditional use permits shall be published at least once 15 days prior to the hearing in a newspaper of general circulation within the county. Adjacent property owners shall be notified by certified mail.
- 21.4 Conditional Approval. Conditions may be attached to the approval of any permit, provided that those conditions are designed to ensure compliance with one or more requirements of this Regulation and that a list of all conditions imposed is sent to the applicant with the notice of the decision. The Planning and Zoning Commission may make the granting of a conditional use permit subject to reasonable limitations or conditions, as it deems necessary to enhance the appearance of the property, to preserve the character of the area or to make it more acceptable in other ways. The conditions may include but not be limited to the following:

1. Special setbacks, yards, open spaces and buffers.
 2. Fences and walls.
 3. Lighting.
 4. Regulation of signs.
 5. Regulation of vehicular ingress and egress
 6. Regulation of time of activities that have off-site impacts.
 7. Landscaping and its maintenance thereof.
 8. Time schedule of proposed development.
 9. Regulation of odors, smoke, dust, airborne particles, vibration, glare, heat and noise.
 10. Requiring dedication of rights-of-way.
 11. Requiring improvements of rights-of-way.
 12. Regulation of placement of uses on the property.
 13. Regulation of height.
 14. Regulation of the nature and extent of the use.
 15. Regulation of the length of time such use may be permitted.
 16. Requirements for restoration of property.
- 21.5 Security. The Planning and Zoning Commission may require guarantees in the form of bonds, cash deposits and/or other evidences of assurance in order to secure compliance with conditions imposed.
- 21.6 Expiration. All conditional use permits issued for definite term shall automatically expire at the end of the designated term.
- 21.7 Authorized Use. For purposes of this Regulation, a conditional use permit shall not be considered as engaging in the authorized use on the site until the following conditions are satisfied:
1. Buildings proposed for construction in connection with the proposed use are in the process of actual construction on the site; or
 2. If remodeling is proposed for existing buildings in connection with the proposed use, such remodeling has actually been commenced on the site; or
 3. If no construction or remodeling is contemplated then the permittee is regularly engaged on the site in performing the services or in selling the goods, materials, or stocks in trade of the use, and has secured all necessary federal, state and local permits and licenses.
- 21.8 Revocations or Modification of Conditional Use Permits. A conditional use permit may be revoked or modified by the Planning and Zoning Commission under the following circumstances:
1. If conditions have changed substantially from those at the time the permit was granted; or
 2. Revocation or modification is necessary to protect the health, safety, and welfare of the area in which the subject property is situated or the residents of the County, or to preserve the integrity of existing use patterns in the area in which the subject property is situated; or
 3. The person holding the permit has not materially changed his position by detrimentally relying on the conditional use permit; or
 4. If the person holding the permit has not complied with the conditions upon which it was issued.

Modification or revocation may occur only after following the same formal procedure for notice and hearing required for the granting of a conditional use permit.

21.9 Issuance of A Land Use Permit. No land use permit shall be issued other than in accordance with the conditions and terms of the conditional use permit. No land use permit shall be issued until time for appeal on a conditional use permit has elapsed, or if an appeal has been filed, and the appeal has been decided.

21.10 Permits: Extensions.

1. No later than 30 days prior to the expiration of the conditional use permit, the holder thereof permittee may file written application with the Planning and Zoning Commission requesting an extension of time thereon and setting forth the reasons for the request. Applications shall be accompanied by the required fee.
2. The Zoning Enforcement Agent shall send a notice of the application by mail to persons, or their successors in interest of record in the County Clerk and Recorder's Office, who were mailed notice of the original. Attached to the application shall be a notice that any person objecting to such extension shall, within 15 calendar days from the date of mailing, notify the Planning and Zoning Commission of such objection.
3. If any objection is received from those notified, a public hearing, as set forth in Section 20.2, shall be held.
4. If no objection is received, the Planning and Zoning Commission may extend the permit for a period equivalent to the original period for which granted, or for one year, whichever is shorter.
5. An extension may only be granted upon finding of fact by the Planning and Zoning Commission that no change of condition or circumstances has occurred that would have been grounds for denying the original application.
6. The Planning and Zoning Commission shall consider requests for extensions only at the end of the approval period. The decision of the Planning and Zoning Commission shall be final. If the extension request is denied, a subsequent application for an extension of the permit cannot be made.

SECTION 22

VARIANCES

22.1 Authorization to Grant or Deny Variance Requests. The County Commission may authorize a variance from the requirements of this Regulation as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of this Regulation or decision of the Planning and Zoning Commission will result in unnecessary hardship. No variance shall be granted to allow the use or development of property for a purpose not authorized within the zone in which the proposed development would be located. In granting a variance, the County Commission may attach conditions it finds necessary to achieve compliance with the criteria below.

22.2 Criteria for Granting a Variance. In considering whether a variance will not be contrary to the public interest and whether, owing to special conditions, literal enforcement of this Regulation or a decision of the Planning and Zoning Commission will result in unnecessary hardship, the County Commission shall consider the following criteria:

1. Exceptional or extraordinary circumstances apply to the property that do not apply generally to other properties in the same zone (as shown on the official zoning map) or vicinity and that result from lot size or shape, topography, or other circumstances over which the owners of property have had no control since enactment of this Regulation.
2. The variance is necessary for the preservation of a property right of the applicant that is substantially the same as that possessed by owners of other property in the same zone (as shown on the official zoning map).
3. The variance would not be materially detrimental to property in the same zone or vicinity in which the property is located.
4. The variance requested is the minimum variance that would alleviate the hardship.
5. In reaching their findings, the Planning and Zoning Commission shall duly consider any recommendations received from the Committee.

22.3 Procedure. The need for a variance must be anticipated, and the variance obtained before filing an application for a land use permit. Written applications for variance shall be filed with Zoning Enforcement Agent. The required fee shall accompany the application. An application shall not be regarded as having been filed until said fee is paid.

The County Commission shall cause to be made such investigation of facts bearing on the application as will provide necessary information to assure that the action on each application is consistent with the intent and purpose of this Regulation.

22.4 Hearing and Notice. The Gallatin County Planning Department may refer the application to the Advisory Committee for review and place a hearing on the proposed variance on the agenda of the next regular County Commission meeting for which the notice requirements can be met and at which time will allow committee review and its proper consideration.

The County Commission shall conduct a hearing on the proposed variance. The County Commission shall accept testimony from persons interested in the application, from the applicant, and from the Zoning Enforcement Agent.

Notice of hearing shall be published once in a newspaper of general circulation within the County at least 15 days prior to the hearing date. In addition, the Planning Staff shall send a certified letter to record owners of property adjoining a proposed variance.

- 22.5 Approval. In approving an application for a variance, the County Commission may designate such lawful conditions as will secure substantial protection for the public health, safety, and general welfare and shall find the request to meet the criteria set forth above. Any approval under this section shall be subject to the terms of the conditions.

SECTION 23

LAND USE PERMITS

23.1 Procedures for Obtaining A Land Use Permit. The land use permit procedure allows for prompt, routine review of uses-by-right, while ensuring compliance with this Regulation. The land use permit procedure shall be as follows.

1. No structure shall be built, moved or structurally altered until a land use permit (fees paid in full) has been issued under this section.
2. Land use permits shall be issued only for uses in conformance with these Regulations and the conditions and terms of a conditional use permit if a conditional use permit is required. No land use permit shall be issued until the time for appeal on a conditional use permit or variance has elapsed and all appeals are finally decided.
3. Land use permits issued on the basis of plans and specifications approved by the Zoning Enforcement Agent only authorize the use, arrangement and construction set forth in the approved plans and specifications. A use, arrangement or construction at variance with that authorized shall constitute a violation of this Regulation.
4. Land use permits shall be in writing and shall be in the form specified by the Planning and Zoning Commission.
5. An application for a land use permit shall be filed with the Gallatin County Planning Department. Land use permits may be issued by the Zoning Enforcement Agent. All land use permit applications must be complete before the Zoning Enforcement Agent is required to consider the permit. An application is complete when it contains all of the information necessary for the Zoning Enforcement Agent to decide whether or not the development, if completed as proposed, will comply with the Regulation.
6. If an application for a land use permit is denied by the Zoning Enforcement Agent, the applicant may apply for a variance or file an appeal with the Planning and Zoning Commission in accordance with the procedures of Section 17.5.
7. Where new sanitary sewage facilities or extensions of existing sanitary sewage facilities are proposed, a land use permit shall not be issued until the applicant has first obtained a permit from the Gallatin County Environmental Health Department or MDEQ.
8. No permit shall be required for repairs or remodeling that do not alter the exterior dimensions of a structure, including clearing, grading, or the installation of utilities in preparation for repairs or remodeling, but compliance with the applicable requirements of this Regulation shall be required.

23.2 Certificate of Occupancy. A certificate of occupancy shall be issued prior to occupancy of a structure. A certificate of occupancy indicates that development complies with this Regulation, and, where applicable, the Gallatin County Subdivision Regulations. Occupancy of a structure without a certificate of occupancy constitutes a violation of this Regulation.

23.3 Expiration of Permits.

1. A land use permit shall expire if the building or work authorized by the permit has not commenced within 24 months from the date of the issuance of the permit or if the building or work authorized by the permit is suspended or abandoned at any time after the work is commenced for a period of 180 days.

2. After a land use permit has expired, no work can be recommenced until a new permit to extend is obtained. The fee for a new permit shall be one-half of the amount required for the original permit, provided that no changes have been made or will be made in the original plans and specifications for the work and that abandonment has not exceeded one year.
3. All exterior construction shall be completed within two years of the date of issuance of the land use permit (unless exterior improvements are extended through an improvements agreement per Attachment E). This includes the construction of the exteriors of all structures, the construction of all required parking, and the placement of all required landscaping and screening. This provision shall not apply to signs where a separate sign permit is required.

SECTION 24

COMPLAINTS AND ENFORCEMENT

- 24.1 Compliance. Any person may file a written complaint with the Gallatin County Planning Department whenever a violation of this regulation occurs or is alleged to have occurred. The complaint shall state fully the facts supporting the complaint.

Upon receipt of a complaint, or upon its own initiative, Gallatin County Planning Department and/or Compliance Department staff shall immediately investigate and take action as provided by the regulation. The investigator shall notify the person of the alleged violation and request access for an inspection. If access is denied, the investigator may seek an administrative warrant. With reasonable cause, the Planning and/or Compliance departments may revoke any land use permit, issue cease and desist orders requiring cessation of any building, moving, alteration or use which is in violation of the regulation and require corrective action, including dismantling or removal of non-complying structures, to remedy the violation.

- 24.2 Injunction. After the exhaustion of administrative remedies and pursuant to MCA § 76-2-113, the County Attorney, in conjunction with the Code Compliance Specialist, may bring an action in the name of the County of Gallatin in the District Court to enjoin any violations of this ordinance.

The owner or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, agent or other person/entity who commits, participates in, assists or maintains such violation may each be held accountable for a separate violation.

The prevailing party may be awarded all costs, including attorney's fees.

- 24.3 Fines. The Planning and Zoning Commission may assess violators' fines of up to \$500 per day of violation for noncompliance until the violation is remedied. When determining the amount and duration of a fine, the Planning and Zoning Commission shall consider the nature, circumstances, extent and gravity of the violation, any prior history of such violations, the degree of culpability, and such other matters as justice may require. In addition, the violator may be required to pay administrative costs. If the fine is not paid, it shall become a lien upon the property. An alleged violator may appeal the assessment of a fine to the County Commission as set forth below.

- 24.4 Appeal Process (Violations). An alleged violator may appeal a Gallatin County Planning or Compliance Department's decision regarding a violation in writing via certified mail to the Planning and Zoning Commission within ten (10) business days.

The Planning and Zoning Commission shall hold a hearing within 45 business days from the date that the appeal was received. The Planning and Zoning Commission shall, in writing, affirm, modify or withdraw the Department's decision within 20 business days after the hearing. Once an appeal for a hearing has been made, the Department's decision shall be stayed until the Planning and Zoning Commission has held the hearing and affirmed, modified or withdrawn the determination of the Department. Any final decision made by the Planning and Zoning Commission will be binding upon the Department.

Any person may appeal a final decision of the Planning and Zoning Commission within 30 days to the Eighteenth Judicial District Court.

- 24.5 Appeal Process (Fines). An alleged violator may appeal a Planning and Zoning Commission's assessment of a fine for noncompliance to the County Commission with 10 business days in writing via certified mail. The County Commission shall hear the appeal at a regularly scheduled meeting within 45 business days from the date the appeal was received, and shall, in writing, affirm, modify or withdraw the Planning and Zoning Commission's decision within 20 business days after the hearing. Once an appeal for a hearing has been made, the Planning and Zoning Commission's decision shall be stayed until the County Commission has held the hearing and affirmed, modified or withdrawn the determination of the Planning and Zoning Commission.

Any person may appeal a final decision of the Board of County Commissioners within 30 days to the Eighteenth Judicial District Court.

(Amended: County Commission Resolution No. 2004-67)

(Amended: County Commission Resolution No. 2004-144)

SECTION 25 ADOPTION

This Regulation was originally adopted on November 13, 1975 and amended thereafter.

The Regulation was amended by Resolution No. 2005-12 of the Hebgen Lake Planning & Zoning Commissioners on June 16, 2005; and by Resolution No. 2005-111 of the Gallatin County Commissioners on July 5, 2005. The comprehensive update to this Regulation was amended by Resolution No. 2003-16 of the Hebgen Lake Planning & Zoning Commissioners on December 18, 2003; and by Resolution No. 2004-002 of the Gallatin County Commissioners on January 13, 2004.

Gallatin County Zoning Commission:

_____/s/_____
Shelley Vance, Chair

_____/s/_____
Anna Rosenberry

_____/s/_____
John Vincent

_____/s/_____
William Murdock

_____/s/_____
Jennifer Smith Mitchell

_____/s/_____
Anne Trygstad

_____/s/_____
Beth Horn

Gallatin County Commission:

_____/s/_____
John Vincent, Chair

_____/s/_____
William Murdock

_____/s/_____
Jennifer Smith Mitchell

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ATTACHMENT A - DETAILED PERFORMANCE STANDARDS FOR OFF-STREET PARKING

1. Off-Street Parking Required. All uses and buildings shall provide the minimum number of off-street parking spaces required by Table A. Parking areas shall have properly graded and drained gravel or paved surfaces
2. Off-Street Parking Requirements for Uses Not Listed. The classification of uses and off-street parking requirements for uses that are not listed in Table A. shall be determined by the Planning Department. Any person who disputes a decision of the Planning Department may request a review of that decision using the appeals procedure.
3. Location of Off-Street Parking. Required off-street parking spaces shall be within 600 feet of a main entrance of the use or building served, except for spaces serving a dwelling, which shall be within 100 feet of the main entrance of the dwelling unit served.
4. Control of Parking. Off-street parking shall be provided on the same lot or parcel, and under the same ownership as the use it serves, but two or more uses may share parking where:
 - a. The total number of spaces provided is not less than the sum of spaces required for all buildings or uses served, and
 - b. A contract providing for shared parking for a period of at least 20 years is executed before approval of a permit and recorded before issuance of a certificate of compliance.
5. Passenger Loading Areas. Day care centers, schools, and places for public assembly located on arterial streets shall provide at least one safe, properly signed off-street passenger loading area.
6. Access to Off-Street Parking and Loading Areas. Properly graded and drained gravel or paved driveways shall be provided for safe access to off-street parking and loading areas, including the off-street parking for single-family dwellings.
 - a. No parking or loading area shall create a situation in which vehicles are required to back onto a public street. Exception: Parking areas for single-family dwellings with access to local streets are exempt from this requirement.
 - b. Continuous curb cuts shall be prohibited. All access to public streets shall be via driveways that comply with the standards of this appendix.
 - c. Driveways accessing an arterial shall be at least 200 feet from any other point of access (other driveways or intersections) or, where that distance cannot be attained, at the property line most distant from another point of access. Driveways to roads intersecting an arterial shall be located at least 150 feet from the arterial or, where that distance cannot be attained, at the property line most distant from the arterial.
 - a. Clear vision triangles of 40 feet along each side shall be provided on both sides of driveways and alleys. No parking, and no solid fence or wall, planter, hedge, shrub, or other visual obstruction more than two and a half feet in height above grade shall be permitted in a clear vision triangle. Trees may be permitted in clear vision triangles, but only where all branches are pruned to a height of at least eight feet above grade. Where physical hardship is proven and a variance of the clear vision triangle requirement is appropriate, the applicant shall be responsible for the costs of installing a stop sign at the intersection. The street on which traffic will be stopped will be determined by the Planning Department, based on existing and projected traffic flows.

- e. Driveways for single-family dwellings shall be a minimum of ten feet wide, with a minimum curb radius of five feet, and a maximum grade of three percent for at least 20 feet before the driveway intersects the street. Driveways for other uses shall be designed to accommodate the anticipated level of traffic.
 - f. Where necessary for drainage, driveways shall be built over a culvert capable of bearing at least 40,000 pounds. Culvert size shall be as specified by Gallatin County.
7. **Circulation in Off-Street Parking Areas.** The pattern of circulation within off-street parking areas shall be designed to give safe and efficient access to parking spaces, protect pedestrians, and facilitate safe access to public streets.
- a. Minimum aisle widths shall be: 1). For two-way circulation and 90 degree parking: 24 feet; 2). For one-way circulation and 60 degree parking: 18 feet; 3). For one-way circulation and 45 degree parking: 15 feet; and 4) For one-way circulation and 30 degree parking: 13 feet.
 - b. Where one-way circulation is used, directional signs shall be installed at all access points to the parking area
 - c. No off-street parking area shall be designed so that circulation from one portion of the area to another relies on a public road.
 - d. There shall be safe pedestrian access around or through all off-street parking and loading areas.
8. **Master Planning.** Where possible, developments shall minimize the number of points of access to public streets, maximize parking efficiency, and minimize storm and melt water runoff by sharing parking areas.

Table A- Minimum Parking Space Requirements by Land Use

Residential and Lodging uses	Spaces per Dwelling/Lodging unit
Dwellings, except as shown below for housing for the elderly only	2.0
Lodging places: motels, hotels, bed and breakfasts and similar uses	1.2 – attached restaurants, meeting rooms, etc. counted separately as commercial space
Commercial and industrial uses	Spaces per 1000 square feet gross floor area
Convenience stores	5
Eating places	10
Specialty retail and service	5

ATTACHMENT B: DOG CONTROL ORDINANCE OF GALLATIN COUNTY (ORDINANCE NO. 2003-01)

Uncontrolled dogs present a danger to the health, safety, and welfare of the citizens of the County. The Board of Commissioners has a duty and power to protect its citizens under the law of the State of Montana. Title 7, Chapter 23 of the Montana Code Annotated gives the Commissioners the authority to control dogs.

Dog control shall follow the Dog Control Ordinance of Gallatin County as follows:

1. Applicability. Applies to all unincorporated areas within Gallatin County.
2. Definitions. The following words and terms as used in this ordinance shall have the following meanings:
 - a. “Animal” shall mean all livestock or other farm animal and any domestic pet or game animal.
 - b. “At Large” shall mean any dog off the premises of the owner or its agents and not under immediate control by a reasonable leash, tether, lead, other physical control device, hand control, voice control or signal control of a person capable of controlling, subduing, or restraining the dog.
 - c. “Dog” shall mean any canine animal, of either sex, or any dingo, wolf, coyote, or hybrid of the above.
 - d. “Owner” shall mean any person, group of persons, partnership, corporation or limited liability company keeping, feeding, harboring, or allowing a dog to stay on the premises.
 - e. “Vicious Dog” shall mean any dog, which bites or attempts to bite any human being without provocation.
 - f. “Dangerous Dog” shall mean any dog, which harasses, chases, bites, or attempts to bite any animal.
3. Enforcement. The provisions of this ordinance shall be enforced by the County Sheriff or his agent.
4. Dogs at Large. An owner of a dog at large is guilty of a misdemeanor. The owner of a dog in violation of this section shall for conviction of a first offense, be fined not more than \$50.
5. Vicious Dogs. An owner of a vicious or dangerous dog is guilty of a misdemeanor. An owner may be found guilty of this section when a human being is lawfully on its premises by invitation, license, permission, right of way or easement, any other lawful reason or performing a duty imposed or service authorized under federal, state, or other applicable law.
6. Rabies Control. If any dog, including but not limited to vicious or dangerous dogs, bites a person in Gallatin County, such dog shall immediately be reported to the County Sheriff’s Office and the Gallatin County Health Department. The Sheriff may direct the dog to be impounded and quarantined at the owner’s expense. It is unlawful for any person to refuse to surrender any dog after such direction. In the event the owner is unknown or the dog is at large, the County Sheriff shall seize and impound such dog without notice. If a vicious or dangerous dog is at large and the County Sheriff is unable to seize and impound such dog, the dog may be killed without notice.
7. Barking Dogs. A barking dog is any dog, which unreasonably annoys or disrupts any person by continuous and habitual barking, howling, yelping, crying, or whining. An owner of a barking dog is guilty of a misdemeanor. The owner of a barking dog in violation of this section shall for conviction of a first offense, be fined no less than \$50.

ATTACHMENT C: MONTANA COUNTY NOXIOUS WEED CONTROL ACT 7-22-2101-2153, MCA

The following is a summary of the state law along with other information concerning what can be done to stop the spread of noxious weeds. With a conscientious effort we CAN control the weeds in the Hebgen Lake Basin. Cost sharing and sprayer rental programs are available. Questions: call the Gallatin County Weed District at (406) 582-3265; the Department of Agriculture at (406) 444-5400; or Susan LaMont at the United States Forest Service at (406) 823-6976.

It is unlawful for any person to permit any noxious weed to propagate or go to seed on the person's land, except that any person who adheres to the noxious weed management program of the person's weed management district or who has entered into and is in compliance with a noxious weed management agreement is considered to be in compliance with this section.

When property is offered for sale, the person who owns the property shall notify the owner's agent and the purchaser of the existence or potential existence of noxious weeds on the property offered for sale.

Violations. Any person who in any manner interferes with the board or its agent is liable for a civil penalty in the amount of the actual cost to the board or the estimated cost of removing the noxious weeds from the impacted property in addition to any penalty imposed under 7-22-2124.

Procedure in case of noncompliance. 1) Complaints can be issued by anyone; however, prior to acting the complainant must have made contact with the respondent about the noxious weeds. 2) The person should be notified and an inspection will take place within ten days. 3) If weeds are found the owner will be notified and he must come up with control measures. (Also a person can make a report to the Weed Board anonymously but the time frame can be longer since the county will pursue the report as time allows. Voluntary control is the only action taken on a report.) A complaint must be filed in order for legal action to be taken.

If corrective action is not taken and a proposal is not made and accepted the board may enter upon the person's land and institute appropriate control measures. In that case, the board shall submit a bill to the person for the cost plus a penalty up to ten percent of the total cost incurred. If the bill is not paid, the cost will be added to the assessment of the land. Where the board feels it's prudent not to enter the land for control purposes, they may order the respondent to submit a plan to manage the weeds. If the respondent refuses he is guilty of a misdemeanor and will be fined. (For a complaint form or procedure contact the Gallatin County Weed Board at (406) 582-3265.)

NOXIOUS WEEDS OF GALLATIN COUNTY

*** * Known in the Hebgen Lake Basin

Category One Weeds: (widespread)

Canada Thistle****
Field bindweed****
White top or Hoary cress ****
Leafy spurge ****
Russian knapweed****
Spotted knapweed****
Diffuse knapweed ****
Dalmation toadflax****
St. Johnswort (Goatweed)****
Sulfur cinquefoil****
Common tansy ****
Oxeye daisy****
Houndstongue****

Category Five Weeds: (Not noxious, yet)

Henbane
Catchweed bedstraw
Salvia or Meadow sage
Field scabiosa****
Scentless chamomile ****

Category Two Weeds: (rapidly expanding)

Dyers woad ****
Purple loosestrife
Tansy ragwort
Meadow hawkweed complex
Orange hawkweed****
Tall buttercup
Tamarisk (saltcedar)

Category Three Weeds: (not detected yet)

Yellow starthistle
Common crupina
Rush skeltonweed

Category Four Weeds: (in Gallatin County)

Meadow knapweed
Poison Hemlock ****
Musk thistle ****
Yellow toadflax ****

Local Weeds of concern to Yellowstone NP

Yellow sweet clover ****
Flannel mullein ****

ATTACHMENT D: MONTANA JUNK VEHICLE LAW

Montana Junk Vehicle Law-- 75-10-505, MCA.

The 1973 Montana Motor Vehicle Recycling and Disposal Act requires commercial and county motor vehicle storage and wrecking yards to obtain an annual license, keep appropriate records, and shield their junk vehicles from public view. This law also requires the control of junk vehicles at other locations.

Montana was one of the leading states in enacting junk vehicle legislation. Its primary purpose is to control junk vehicles from being scattered throughout the countryside, thereby helping preserve the beauty of the state. This program also provides for the recycling of the junk vehicles collected so that this valuable resource can be utilized again. This program is paid for from the small fee assessed when you license your vehicle.

A junk vehicle is defined as any “discarded, ruined, wrecked, or dismantled motor vehicle, including component parts, which is not lawfully and validly licensed and remains inoperative or incapable of being driven.” All such vehicles must be shielded from public view, meaning they cannot be seen from a point six feet above any public roadway. Placing tarps or plastics over the vehicle or vehicle parts is unacceptable shielding. This applies to even one vehicle, which meets the definition or component parts such as engines, transmissions, or fenders. If the vehicle is not shielded, it must be moved from public view. This can be done by putting it in a garage or behind a permanent fence. Guidelines for shielding a junk vehicle can be obtained from the address below.

If the vehicle has value for spare parts, contact a licensed private motor vehicle wrecking facility. If the vehicle or parts have no value, contact the local junk vehicle program listed below for advice or assistance to have the vehicle hauled away at no charge to you.

If you have four or more junk vehicles at any location or if you buy, sell, or deal in secondhand parts, you must obtain a license. You can contact the address below, the County Sanitarian, or the Department of Environmental Quality, Junk Vehicle Program, P.O. Box 200901, Helena, MT 59620-0901.

The junk vehicle statutes provide for criminal penalties for not complying with the Montana Junk Vehicle Law. Criminal penalties include fines up to \$250 and/or 30 days in jail. Civil fines of up to \$50 per day of violation may also be imposed.

For more information about the state’s junk vehicle program, contact:

Gallatin County
Junk Vehicle Program
..... 201 W. Tamarack
Bozeman, MT 59715
.....

ATTACHMENT E: REQUIRED IMPROVEMENTS

This chapter requires the installation of improvements at the developer's expense, sets improvement standards, permits the phased installation of improvements pursuant to improvements agreements, and requires the perpetual maintenance of required improvements. It is intended to be implemented in concert with the Gallatin County Subdivision Regulations, where they are also applicable.

Required Improvements Defined. A required improvement is any improvement required for compliance with any standard of this Regulation. Required improvements include, but are not limited to:

1. Water, sewer, and other utilities, including any extension of lines required to serve the development.
2. Off-street parking areas for lodging and commercial uses.
3. Access drives and roads, including bridges, culverts, and street identification and traffic control signs.
4. Required landscaped buffers.

Installation at Developer's Expense. The installation of all required improvements shall be at the applicant's expense.

Standards for Required Improvements. All required improvements shall be installed in compliance with this Regulation. All required improvements, except landscaped buffers, must be within the development area. Any design and engineering standards separately adopted by the county or other agencies responsible for providing services to the development shall comply with this Regulation.

Time of Installation/Improvements Agreements.

1. Developers may install all required improvements before a certificate of occupancy is issued.
2. Developers may also elect to obtain certificates of occupancy in phases. Phasing shall be permitted pursuant to an improvements agreement executed as provided for in the Gallatin County Subdivision Regulations.

Effect of an Improvement Agreement. The effect of an improvement agreement shall be to create vested rights in the site plan, as it was approved. Such rights expire with the improvement agreement.

Inspection and Acceptance of Improvements. Required improvements shall be inspected by the Planning Department before acceptance. Acceptance of required improvements shall be by action of the County Commissioners, following submission of the applicant's written request for acceptance and receipt of the Planning Department's report that all improvements have been inspected and are in compliance with this Regulation.

Inspection Fees. Fees for the inspection of required improvements shall be set by regulation of the County Commissioners. Inspection fees shall be paid before any work on required improvements is permitted.

As-Built Drawings. Reproducible as-built drawings of all improvements shall be provided to the county at the applicant's expense.

Continuing Maintenance Required. The continuing maintenance of any improvement required for compliance with this Regulation shall be required. Failure to maintain any required improvement is a violation of this Regulation.

Maintenance Mechanism. The developer of a subdivision that is subject to the continuing maintenance requirement shall create a community association or similar mechanism to ensure continuing maintenance of required improvements. The

developer shall submit the proposed declaration of covenants, articles of incorporation, and by-laws for the community association during the subdivision review process and these documents shall be approved by the county attorney and recorded before a certificate of occupancy is issued.

Open Space Maintenance. The maintenance of any open space area required for compliance with this Regulation shall include fencing, control of noxious weeds, litter removal, and wildfire suppression.

Maintenance of Landscaping. Maintenance of landscaped areas includes the installation and maintenance of an irrigation system, where necessary, timely irrigation, weed and pest control, and all other activities required maintaining the function of the landscaped area.

ATTACHMENT F: ROLES AND RESPONSIBILITIES

Gallatin County Commissioners. The Gallatin County Commissioners adopted this Regulation and the development plan it implements. Their duties in its administration shall include:

1. Appointing and serving on the Planning and Zoning Commission, appointing the Committee, and appointing the Planning Department staff members.
2. Setting the application and inspection fees.
3. Acting on applications for variances.
4. Accepting required improvements.

Planning and Zoning Commission. The Planning and Zoning Commission shall be constituted as provided by 76–2–102, MCA. Its duties in the administration of this Regulation shall include:

1. Hearing appeals from decisions of the Planning Department.
2. Reviewing and approving, conditionally approving, or rejecting applications for conditional use permits, variances, amendments, and reviews.
3. Hearing appeals of violation notices and decisions of the Planning Department.

Advisory Committee (Committee). A Hebgen Lake Advisory Committee may be created consisting of up to five members, appointed by the Hebgen Lake Planning and Zoning Commission. Members shall be freeholders in the Hebgen Lake Zoning District. This shall be a non-remunerative committee. Committee members shall be appointed for two-year, staggered terms. The Committee's roles and duties may include:

1. Reviewing this Regulation in its entirety and recommending updates to the Planning and Zoning Commission at a minimum of every five years.
2. Reviewing all HLZD applications and formulating a recommendation on all applications received by the Planning and Zoning Commission. All recommendations shall be advisory only and shall not be binding on the Planning and Zoning Commission.
3. Notifying the Gallatin County Planning Department when there appears to be a violation of this Regulation.
4. Scheduling, providing notice, and conducting community meetings.
5. Forwarding public letters and comments that it has received to the Planning Department for inclusion in the Staff Report for consideration by the Planning and Zoning Commission.

Gallatin County Planning Department (Planning Department). The Gallatin County Planning Department shall perform the following duties:

1. Assist the public in understanding the applicability and requirements of this Regulation.
2. Prepare application forms and accepting applications for permits, appeals, and variances, accepting only complete applications.
3. Review applications for land use permits for compliance with this Regulation and approving or rejecting such applications.
4. Work with the Committee, Planning and Zoning Commission, and County Commissioners to schedule community meetings and hearings, and providing notice of community meetings and hearings.
5. Provide decision notices.
6. Investigate possible violations of this Regulation; issuing notices of violation as provided by this Regulation; and working with the county attorney to remedy violations that cannot be resolved via administrative procedures.

7. Inspect, or provide for the inspection of, required improvements, as required by Section 16.
8. Account for fees collected in the administration of this Regulation and preparing an annual report summarizing development activity in the district.
9. Perform all other duties assigned by this Regulation and assisting the Committee, Planning and Zoning Commission, and County Commissioners in the execution of their duties.

County Attorney. The County Attorney shall enforce the requirements of this Regulation when administrative efforts have failed, or where there is an immediate threat to public health and safety. The County Attorney is also responsible for the review of improvement agreements.

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